

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

THE STATE OF TEXAS, et al., §  
§  
Plaintiffs, §  
v. §  
§  
GOOGLE LLC, §  
§  
Defendant. §

Civil Action No. 4:20-CV-957-SDJ

**RESPONSE TO PLAINTIFFS' STATEMENTS  
DURING MARCH 21, 2024 HEARING**

Defendant Google LLC (“Google”) files this brief submission to correct a statement made by Plaintiffs at yesterday’s status conference. Plaintiffs stated that they have pursued discovery on the Network Bidding Agreement (“NBA”) since this case was remanded and, as evidence, pointed to their November 10, 2023 requests for production as including requests concerning the NBA. In fact, these requests (Ex. A), do not include any request concerning the NBA, Facebook, or any iteration of Jedi, the project name.

While the word “Jedi” is included in the definition of “AdTech Auction Mechanics,” Ex. A ¶ 8, the phrase “AdTech Auction Mechanics” is *not* included in any of the requests. Similarly, the phrase AdTech Auction Mechanics is included as an example in a much broader definition for the more general terms “Open Bidding” or “Exchange Bidding”:

“Open Bidding” or “Exchange Bidding” shall mean that feature of DFP which enables Publishers using DFP to connect to demand from third-party Ad Exchanges to AdX over a server-to-server connection, allowing multiple Ad Exchanges to submit bids simultaneously. This definition also includes any successor or predecessor AdTech Auction Mechanics bearing the same or similar functionality, e.g., any and all iterations of the pre-release projects You refer or have referred to as Jedi (e.g., Jedi+, Jedi++) or Demand Syndication.

*Id.* ¶ 48. But the two requests (RFP 51 and 101) that include the terms Open Bidding or Exchange Bidding are not unique to the NBA, Facebook, or any related allegations:

- **RFP 51:** All Documents, including but not limited to reports, sufficient to show the number of instances that Exchange Bidding returned a higher bid than the winning bid for the ad selected.
- **RFP 101:** All Documents and Communications from January 1, 2019 to the present relating to statements, claims, or representations You made to any Publisher relating to whether You manipulated search traffic results to punish publishers who did not engage in Exchange Bidding.

In short, Plaintiffs' discovery last November does not relate to the NBA. The first time that Plaintiffs sought such discovery since the remand is when they moved to lift the stay this month.

Dated: March 22, 2024

Respectfully submitted,

*/s/ R. Paul Yetter* \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I certify that on March 22, 2024, this document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).

*/s/ R. Paul Yetter*

R. Paul Yetter